

REGULATION 8

ENFORCEMENT

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RULE 801 ENFORCEMENT

Adopted 05-24-77

These Rules and Regulations shall be enforced by the Air Pollution Control Officer and his duly authorized agents under authority of Sections 40752, 40743, 40702, 40001, and all officers empowered by Section 41020.

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RULE 802 AUTHORITY TO ARREST

Adopted 05-24-77

In the performance of his duties, the Air Pollution Control Officer and his duly authorized agents shall have the authority and immunity of Public Officers and employees as set forth in Penal Code Section 836.5 to make arrests without a warrant whenever he has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his presence which is in violation of any of the Rules and Regulations of this Air Pollution Control District wherein he has the authority to enforce or of any statute which he has the authority to enforce.

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RULE 803 PENALTIES

Adopted 05-24-77
(Amended 5-20-85, 10-19-93, 2-14-02)

Any person or entity who violates any provision of any order, permit, rule, regulation, requirement, condition, or obligation imposed by the State Air Board, this Air District, the California Air Pollution Control Laws (Division 26 of the California Health and Safety Code, commencing at section 39000, et. seq.), or Title V of the Federal Clean Air Act is subject to the penalties set forth in the California Health and Safety Code, Division 26, Part 4, Chapter 4, Article 3. Penalties (commencing at section 42400, et. seq.).

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RULE 804 ORDER FOR ABATEMENT

Adopted 05-24-77

The Air Pollution Control Board, may, after notice and a hearing, issue or provide for the issuance by the Hearing Board, after notice and a hearing, an order for abatement whenever the District finds that any person is in violation of Section 41700 or 41701 or of any order, Rule or Regulation, prohibiting or limiting the discharge of air contaminants into the air. The Air Pollution Control Board in holding hearings on the issuance of orders for abatement shall be vested with all the powers and duties of the Hearing Board. Notice shall be given, and the hearing shall be held, pursuant to Chapter 8 (commencing with Section 40800) of Part 3.

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RULE 805 NOTICE TO COMPLY

Adopted 08-12-99

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100 GENERAL

- 101 PURPOSE:** The purpose of this rule is to implement the provisions of Chapter 3 of Part 1 of Division 26 of the California Health and Safety Code (commencing with Section 39150) which define a minor violation and establish guidelines for issuing a Notice to Comply.
- 102 APPLICABILITY:** This rule applies to any person subject to state requirements, District rules or regulations, administrative or procedural plan or permit conditions, or requests for information or records by the District.
- 103 REINSPECTION:** Nothing in this rule shall be construed as preventing the reinspection of a site or facility to ensure compliance or to ensure that minor violations cited in a Notice to Comply have been corrected.
- 104 ENFORCEMENT OF FEDERAL LAWS:** The issuance of a Notice to Comply for a violation of state law will not interfere with an agency's ability to enforce all federal requirements or laws.

200 DEFINITIONS

For the purposes of this rule the following definitions apply.

- 201 CHRONIC VIOLATION:** A violation that reflects a pattern of neglect or disregard that results in the same or similar violation at the same source, facility, or same piece of equipment.
- 202 INFORMATION:** Data, records, photographs, maintenance records, analyses, plans, or specifications which will disclose the nature, extent, quantity, or degree of air contaminants which are, or may be, discharged by the source for which a permit was issued or applied or which is subject to state or federal requirements, District rules or regulations, administrative or procedural plan or permit conditions, or requests for information or records by the District.
- 203 MINOR VIOLATION:** The failure of any person to comply with administrative or procedural requirements of applicable state requirements, District rules or regulations, administrative or procedural plan or permit conditions, or requests for information or records by the District which meets the following criteria:
- 203.1 Does not result in an increase of emissions of air contaminants;
 - 203.2 Does not endanger the health, safety, or welfare of any person or persons;
 - 203.3 Does not endanger the environment;
 - 203.4 Does not cause or contribute to the violation of any State or National Ambient Air Quality Standard;
 - 203.5 Does not preclude or hinder the District's ability to determine compliance with other applicable state or federal requirements, District rules and regulations, administrative or procedural plan or permit conditions, or requests for information or records.
- 204 NOTICE TO COMPLY:** A written method of alleging a minor violation that meets the requirements of Health and Safety Code Section 39151.
- 205 PROCEDURAL REQUIREMENT:** A provision of a rule or regulation that establishes a manner, method, or course of action, but does not specify, limit, or otherwise address direct air contaminant emissions.

- 206 RECALCITRANT VIOLATOR:** A person or facility where there is evidence indicating that the person or facility has engaged in a pattern of neglect or disregard with respect to the requirements of District rules and regulations, permit conditions, or other applicable provisions of state or federal law or regulations.

300 STANDARDS

- 301 MINOR VIOLATIONS:** Except as otherwise provided in Section 306, a Notice to Comply shall be the only means by which the APCO shall cite a minor violation. The APCO shall not take any other enforcement action specified in this rule to enforce the minor violation against a person or facility who has received a Notice to Comply if the person or facility is in compliance with these Standards.

301.1 Notwithstanding Section 203, above, no violation of an applicable state or federal requirement, District rule or regulation, administrative or procedural plan or permit condition, or request for information or records shall be considered a minor violation if:

301.1.1 The violation involves failure to comply with the emission standards in the applicable rule or regulation, including requirements for control equipment, emissions rates, concentration limits, product material limitations, and other rule provisions directly associated with emissions; or

301.1.2 The violation is knowing, willful, or intentional; or

301.1.3 The violation enables the violator to benefit economically from noncompliance, either by realizing reduced costs or by gaining a competitive advantage; or

301.1.4 The violation is chronic; or

301.1.5 The violation is committed by a recalcitrant violator; or

301.1.6 The violation results in a nuisance.

- 302 IMMEDIATE CORRECTION OF MINOR VIOLATIONS:** A Notice to Comply shall not be issued for any minor violation that is corrected immediately in the presence of the inspector. Immediate compliance in that manner may be noted in the inspection report or other District documents, but the person or facility shall not be subject to any further action by the District's representative or an authorized or designated officer. Corrected minor violations may be used to show a pattern of disregard or neglect by a recalcitrant violator.

- 303 CORRECTION REQUIREMENTS FOR NOTICES TO COMPLY:** Any person who receives a Notice to Comply shall have up to 30 days or the period specified in the Notice to Comply, whichever is less, from the date of receipt of the Notice to Comply in which to achieve compliance with the requirement cited on the Notice to Comply.

- 304 FAILURE TO RESPOND:** Within five (5) working days of achieving compliance, the person who received the Notice to Comply shall sign and return it to the District, stating that the person has complied with the Notice to Comply. The returned Notice to Comply shall also include a written statement describing when and how compliance was achieved. Failure to respond or a false statement that compliance has been achieved is a violation subject to further legal action pursuant to the Health and Safety Code, Section 42400, et seq.

- 305 TESTING:** If testing is required by the state board or District or an authorized or designated officer to determine compliance, and the testing cannot be conducted during the course of the inspection, the APCO shall have a reasonable period of time to conduct the required testing.
- 305.1 If, after the test results are available, the APCO determines that the issuance of a Notice to Comply is warranted, the APCO shall immediately notify the person or facility owner or operator in writing.
- 305.2 If off-site testing is required pursuant to this Section, a copy of the Notice to Comply may be mailed to the person or owner or operator of the facility.
- 306 FAILURE TO COMPLY:** Notwithstanding any other provision of this rule, if a person or facility fails to comply with a Notice to Comply within the prescribed period, or if the APCO determines that the circumstances surrounding a particular minor violation are such that immediate enforcement is warranted to prevent harm to the public health or safety or to the environment, the APCO may take any needed enforcement action authorized by law.
- 307 NECESSARY INFORMATION:** Nothing in this rule shall be construed as preventing the APCO, on a case-by-case basis, from requiring a person or facility subject to a Notice to Comply to submit reasonable and necessary information to support a claim of compliance by the person or facility.

400 ADMINISTRATIVE REQUIREMENTS

- 401 CITING A NOTICE TO COMPLY:** A single Notice to Comply shall be issued for all minor violations cited during the same inspection and the Notice to Comply shall separately list each cited minor violation and the manner in which each minor violation may be brought into compliance.
- 402 APPEALS:** Any person who is issued a Notice to Comply may appeal the issuance by filing a written appeal with the APCO within five (5) working days of receipt of the Notice. The appeal shall state the grounds and basis for the appeal and include any evidence as to why the Notice to Comply should not have been issued. The APCO shall grant or deny the appeal within ten (10) working days of the filing of the Appeal. If the APCO fails to respond, the appeal shall be deemed denied. The APCO's decision shall be final.
- 403 PENALTY FOR FAILURE TO COMPLY:** Any person or facility who fails to comply by the date specified on the Notice to Comply shall be subject to further enforcement action pursuant to the Health and Safety Code, Section 42400, et seq., or any other applicable law.
- 404 ADDITIONAL PENALTIES:** Notwithstanding any other provision of this rule, if the APCO determines that the circumstances surrounding a particular minor violation are such that the assessment of a penalty pursuant to this rule is warranted or required by federal law, in addition to issuance of a Notice to Comply, the District shall assess a penalty in accordance with Division 26 of the Health and Safety Code, Section 42400, et seq., if the APCO makes written findings that set forth the basis for the determination of the District.
- 405 EXPIRATION:** This rule shall remain in effect only until January 1, 2001, and as of that date is repealed unless a later enacted rule, which is enacted on or before January 1, 2001, deletes or extends that date, or unless Health and Safety Code Sections 39150 - 39153 are extended beyond that date by an act of the Legislature which is signed into law by the Governor.

500 MONITORING AND RECORDS: (None)

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RULE 806 ADMINISTRATIVE CIVIL PENALTIES

Adopted 04-13-00

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500 MONITORING AND RECORDS (NOT INCLUDED)

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RULE 806 ADMINISTRATIVE CIVIL PENALTIES

Adopted 04-13-00

100 GENERAL

- 101 PURPOSE:** The purpose of this rule is to provide procedures for the imposition and amounts of administrative civil penalties that may be levied pursuant to Section 42402.5, Article 3, Chapter 4, Part 4, of Division 26 of the California Health and Safety Code. Administrative civil penalties provide an alternative means for the District to levy penalties appropriate to the violation without necessitating negotiated settlement or the filing of civil or criminal complaints.
- 102 APPLICABILITY:** This rule applies to the imposition of administrative civil penalties for a violation of Part 4, of Division 26 of the California Health and Safety Code, or any order, permit, rule, or regulation of the state board or of the District, including the District Hearing Board, adopted pursuant to Part 1, of Division 26 of the California Health and Safety Code (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive. Nothing in this rule restricts the authority of the District to negotiate mutual settlements under other penalty provisions of law which exceed five hundred dollars (\$500), or the authority of the District to seek the recovery of civil penalties or the prosecution of criminal violations, in lieu of administrative civil penalties.
- 103 MAXIMUM ADMINISTRATIVE CIVIL PENALTY:** No administrative civil penalty levied pursuant to this rule may exceed five hundred dollars (\$500) for each violation. Each day during any portion of which a violation occurs is a separate offense.
- 104 ENFORCEMENT AUTHORITY:** The imposition of administrative civil penalties pursuant to this rule, in lieu of other remedies, shall be at the discretion of the Air Pollution Control Officer under the authority of California Health and Safety Code Sections 40001, 40702, and 40752.
- 105 PRECLUSION:** The filing of a complaint for civil or criminal violations pursuant to California Health and Safety Code Section 42400 et seq. shall preclude the assessment of administrative civil penalties for the same violation. The payment in full of administrative civil penalties levied pursuant to this rule shall preclude any subsequent complaint for civil or criminal penalties, pursuant to California Health and Safety Code Sections 42400 et seq., for the same violation. These preclusions do not apply to any costs attributed to extinguishing a fire that the District may seek to recover pursuant to California Health and Safety Code Section 42400.5.
- 106 EXEMPTION, MINOR VIOLATIONS:** Violations that are classified as minor violations and for which the person or facility is in compliance with the Notice to Comply Standards, of Rule 805, NOTICE TO COMPLY, are exempt from the application of administrative civil penalties.

200 DEFINITIONS

For the purposes of this rule the following definitions apply.

- 201 AIR POLLUTION CONTROL OFFICER:** The Air Pollution Control Officer of the Placer County Air Pollution Control District appointed by the Placer County Air Pollution Control District Board. Unless the Air Pollution Control Officer for good cause appoints another person to conduct an administrative hearing, the Air Pollution Control Officer is also the Hearing Officer for the purposes of this rule.
- 202 CHRONIC VIOLATION:** A violation that reflects a pattern of neglect or disregard that results in the same or similar violation at the same source, facility, or same piece of equipment.
- 203 MINOR VIOLATION:** The failure of any person to comply with administrative or procedural requirements of applicable state requirements, District rules or regulations, administrative or

procedural plan or permit conditions, or requests for information or records by the District which meets the following criteria:

- 203.1 Does not result in an increase of emissions of air contaminants;
- 203.2 Does not endanger the health, safety, or welfare of any person or persons;
- 203.3 Does not endanger the environment;
- 203.4 Does not cause or contribute to the violation of any State or National Ambient Air Quality Standard;
- 203.5 Does not preclude or hinder the District's ability to determine compliance with other applicable state or federal requirements, District rules and regulations, administrative or procedural plan or permit conditions, or requests for information or records.
- 203.6 Notwithstanding the criteria above, no violation of an applicable state or federal requirement, District rule or regulation, administrative or procedural plan or permit condition, or request for information or records shall be considered a minor violation if:
 - 203.6.1 The violation involves failure to comply with the emission standards in the applicable rule or regulation, including requirements for control equipment, emissions rates, concentration limits, product material limitations, and other rule provisions directly associated with emissions; or
 - 203.6.2 The violation is knowing, willful, or intentional; or
 - 203.6.3 The violation enables the violator to benefit economically from noncompliance, either by realizing reduced costs or by gaining a competitive advantage; or
 - 203.6.4 The violation is chronic; or
 - 203.6.5 The violation is committed by a recalcitrant violator; or
 - 203.6.6 The violation results in a nuisance.

204 NOTICE OF VIOLATION: A written method of alleging a violation of Part 4, of Division 26 of the California Health and Safety Code, or any order, permit, rule, or regulation of the state board or of the District, including the District Hearing Board, adopted pursuant to Part 1, of Division 26 of the California Health and Safety Code (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive.

205 NOTICE TO COMPLY: A written method of alleging a minor violation that meets the requirements of Health and Safety Code Section 39151 and is issued pursuant to Rule 805, NOTICE TO COMPLY.

206 PROCEDURAL REQUIREMENT: A provision of a rule or regulation that establishes a manner, method, or course of action, but does not specify, limit, or otherwise address direct air contaminant emissions.

207 RECALCITRANT VIOLATOR: A person or facility where there is evidence indicating that the person or facility has engaged in a pattern of neglect or disregard with respect to the requirements of District rules and regulations, permit conditions, or other applicable provisions of state or federal law or regulations.

300 STANDARDS

301 ADMINISTRATIVE CIVIL PENALTY GUIDELINES: In lieu of any other civil or criminal penalties, and in addition to any costs attributed to extinguishing the fire that the District may seek to recover pursuant to California Health and Safety Code Section 42400.5, the following shall provide guidelines for the setting of administrative civil penalties. The penalty levied may be varied in consideration of exacerbating or mitigating circumstances.

301.1 Emissions Violations: A violation of Part 4, of Division 26 of the California Health and Safety Code, or any order, permit, rule, or regulation of the state board or of the District, including the District Hearing Board, relating to emissions shall be no more than \$500 per violation.

301.2 Non-Emission Violations: A violation of Part 4, of Division 26 of the California Health and Safety Code, or any order, permit, rule, or regulation of the state board or of the District, including the District Hearing Board, that is not related to emissions shall be no more than \$250 per violation.

301.3 Maximum Penalty: Administrative civil penalties levied pursuant to this rule to one person or source, shall not exceed two thousand dollars (\$2,000.00) for each day during which a violation occurs.

302 PENALTY SCHEDULES: Schedules of violations and applicable penalty amounts may be established to provide for consistency in the levying of penalties for similar violations. The penalty levied in accordance with a penalty schedule may be adjusted in consideration of exacerbating or mitigating circumstances, but shall conform to the guidelines of Section 301.

400 ADMINISTRATIVE REQUIREMENTS

401 CITING AN ADMINISTRATIVE CIVIL PENALTY: Written notice shall be given to the person, or source against whom administrative civil penalties are levied.

401.1 The notice shall identify the nature of the violation(s), specify the date(s) of violation, and the administrative civil penalty that is assessed for each violation. A Notice of Violation may be issued separately or in conjunction with the notice of administrative civil penalty assessment.

401.2 The notice shall advise that the administrative civil penalty is being assessed pursuant to Health and Safety Code Section 42302.5 and Placer County Air Pollution Control District Rule 806.

401.3 The recipient of the notice may be requested to sign and return a copy of the notice for the sole purpose of acknowledging receipt of the notice. Mailed notices shall be sent by certified mail.

401.4 The notice shall also advise that the recipient may review any non-confidential evidence pertaining to the alleged violation, and may within ten (10) days of receipt of the notice make a written request for an administrative hearing. If a hearing is not requested within ten (10) days, the Air Pollution Control Officer may issue an order assessing the penalties specified in the notice. Where no hearing has been timely requested and an order of assessment of penalty is made by the Air Pollution Control Officer, the Air Pollution Control Officer's order is the final administrative action.

401.5 The notice shall advise the recipient that payment in full of the total monetary penalties specified in the notice, within ten (10) working days of receipt, shall result in the closure of the enforcement action with respect to the violations cited.

402 ADMINISTRATIVE HEARING: Any person who is issued a notice assessing an administrative civil penalty may request an administrative hearing. Upon a timely request, an administrative hearing shall be conducted pursuant to the following procedures:

April 13, 2000

- 402.1 The hearing shall be conducted by the Air Pollution Control Officer, provided that an alternative Hearing Officer shall be appointed by the Air Pollution Control Officer for good cause.
- 402.2 The person who has requested the hearing shall be given reasonable notice of the time and place of the hearing.
- 402.3 The person shall have an opportunity to present oral or written evidence and argument. A tape recording or transcript shall be made of the hearing.
- 402.4 Following the hearing, the Hearing Officer shall render a written notice of decision. The notice of decision shall be delivered or sent by certified mail to the person who requested the hearing. The decision shall state whether the Hearing Officer has determined the person has committed a violation as charged, and shall state the basis for that determination. If the Hearing Officer determines that the person has committed one or more violations, the notice of decision shall include an order assessing an administrative penalty in accordance with this rule for each violation, or include an offer for negotiated settlement. The Hearing Officer may rescind an administrative civil penalty, or reduce the amount of a penalty for good cause. The decision of the Hearing Officer is the final administrative action.
 - 402.4.1 Any administrative penalty assessed for a violation of an ordinance may be further subject to the provisions of California Government Code 53069.4.

403 RESOLUTION OF ENFORCEMENT ACTION:

- 403.1 If the total of monetary penalties specified in an administrative civil penalty notice is paid in full within ten (10) working days of the receipt of the notice, the enforcement action related to the violations cited in the notice shall be deemed closed.
- 403.2 If the total of monetary penalties specified in an administrative civil penalty order is not paid in full within ten (10) working days of receipt of the notice, and the Air Pollution Control Officer has issued an order assessing the administrative civil penalties specified in the notice, or the Hearing Officer has issued an administrative hearing decision assessing an administrative civil penalty, the District may seek to collect payment through any legal means, including public or private collections service, or take one or more of the following actions:
 - 403.2.1 The enforcement action may be closed.
 - 403.2.2 A judgement may be sought in a court of competent jurisdiction for the payment of the monetary penalties specified in the administrative civil penalty notice, including an administrative hearing decision, and the recovery of additional expenses incurred due to the failure to pay the penalties by the date required.
 - 403.2.3 The administrative civil penalty notice may be rescinded, and mutual settlement negotiations or the filing of complaints for civil or criminal violations may be sought pursuant to California Health and Safety Code Section 42400 et seq. Notice that the administrative civil penalty is rescinded shall be given by certified mail and shall be effective on the date mailed.

500 MONITORING AND RECORDS: (Not Included)